

REMARKS/ARGUMENTS

This Amendment and Response is responsive to the non-final Office action dated December 12, 2007, setting forth a shortened three-month statutory period of time for reply expiring on March 12, 2008. This Amendment and Response is submitted on April 14, 2008, since April 12, 2008 fell on a Saturday, thus, a petition and fee for a one-month extension of time accompanies this Amendment and Response.

The Assignee thanks the Examiner for reviewing this application and issuing an Office action.

Claims 13-23 are pending in the application, with claims 13, 14, and 15 being independent claims. By this Amendment, claims 13 and 14 are amended. Accordingly, after entry of this Amendment, claims 13-23 will remain pending.

I. Claim Rejections under 35 U.S.C. § 103(a)

The Office action rejects claim 13 under 35 U.S.C. § 103(a) over U.S. Patent No. 5,302,162 to Pasero. The Assignee respectfully traverses this rejection.

As amended, claim 13 recites, *inter alia*, a roller mounted on an axle, the axle including a threaded recess being seated in at least one bushing, the bushing forming an axle extension and being disposed between the motor frame and the base frame to allow the motor and base frames to rotate relative to one another. The Assignee respectfully submits that Pasero fails to disclose these claimed features.

The Office action admits that Pasero does not disclose the bushing forming an axle extension. However, the Office action concludes that "it would have been obvious for Pasero to use an axle extension." The Assignee respectfully disagrees.

First, the Assignee respectfully submits that the reasoning set forth in the Office action is inapposite. Whether or not the adjustment mechanism of Pasero "works in the same way" without any "unexpected results" being achieved is irrelevant to any reason to have the bushing form an axle extension. As such, the Office action fails to provide any reason for a person of ordinary skill in the art to provide a bushing forming an axle extension in the apparatus of Pasero.

Second, whether or not there is any reason to use an axle extension in Pasero is not dispositive. Claim 13 does not merely recite "an axle extension" or "using an axle extension."

Rather, claim 13 recites a bushing forming an axle extension. Thus, the Office action must establish that it would have been obvious to modify the bushing of Pasero to form an axle extension. However, the Office action fails to provide a reason in support of such a conclusion. Moreover, the Office action fails to even set forth a reason for Pasero to "use an axle extension."

As also recited in amended claim 13, the bushing is disposed between the motor frame and the base frame to allow the motor and base frames to rotate relative to one another. Pasero cannot reasonably be considered to disclose this claimed feature because Pasero fails to disclose a base frame and a motor frame that are able to rotate relative to one another.

The Office action refers to "a support frame having a base (20)" and "a base frame attached to the motor frame" in figure 1 of Pasero. However, the Office action fails to specifically point out which elements are being considered to correspond to these features other than the base 20 of the support frame. As such, the Assignee is unable to provide a more detailed response to the Office action's interpretation of Pasero as including a motor frame and a base frame other than to note that the structure disclosed in figure 1 of Pasero appears to disclose only a single frame formed by base frame 20, side rails 22, upright member 34 and railing 36. Further, as no two frames in Pasero are configured to pivot relative to one another, it is unclear along what "first pivot line" the "motor frame" of Pasero is attached to the support frame. Should the Examiner continue to rely on Pasero for rejecting any claims in this application, the Assignee respectfully requests clarification and explicit identification of the elements allegedly disclosed.

For at least the foregoing reasons, the Assignee respectfully submits that claim 13 is patentable over Pasero. Accordingly, the Assignee respectfully requests withdrawal of the rejection of claim 13.

The Office action rejects claim 14 under 35 U.S.C. § 103(a) over Pasero in view of U.S. Patent No. 6,974,404 to Watterson et al. (Watterson). The Assignee respectfully traverses this rejection.

As amended, claim 14 recites, *inter alia*, a roller mounted on an axle, the axle including a threaded recess being seated in at least one bushing, the bushing being disposed between the motor frame and the base frame to allow the motor and base frames to rotate relative to one another. The Assignee respectfully submits that any permissible combination of Pasero and Watterson fails to disclose these claimed features.

As discussed above with respect to claim 13, Pasero fails to disclose a base frame and a motor frame that are able to rotate relative to one another, and thus cannot reasonably be considered to disclose a bushing disposed between the motor frame and the base frame to allow the motor and base frames to rotate relative to one another. Similarly, Watterson fails to disclose a base frame and a motor frame that are able to rotate relative to one another.

The Office action correctly refers to Watterson as disclosing "a base frame that pivots from an unfolded configuration," but erroneously refers to its pivot as being "about a pivot line of a motor frame." The Office action refers to the left side 16 and the right side 18 as "the motor frame" in Watterson. However, the left and right sides 16, 18 are part of a single base/motor frame (tread base) 12, also including front end member 20 and rear end member 22 (column 4, lines 30-39). Because Watterson discloses a single base/motor frame (tread base) 12, Watterson cannot reasonably be considered to disclose a bushing disposed between the motor frame and the base frame to allow the motor and base frames to rotate relative to one another.

For at least the foregoing reasons, the Assignee respectfully submits that claim 14 is patentable over any permissible combination of Pasero and Watterson. Accordingly, the Assignee respectfully requests withdrawal of the rejection of claim 14.

The Office action rejects claims 15, 16, 18-21, and 23 under 35 U.S.C. § 103(a) over Watterson in view of Pasero. The Assignee respectfully traverses this rejection.

Claim 15 recites, *inter alia*, a motor frame attached to the support frame along a first pivot line and a base frame attached to the motor frame, wherein the base frame is pivotally attached to the motor frame along a second pivot line spaced from the first pivot line. The Assignee respectfully submits that any permissible combination of Pasero and Watterson fails to disclose these claimed features.

The Office action asserts that a motor frame in Watterson is formed by elements 292, 16, 18 and 264. These elements support the motor 265; however, these elements also support the motor 138 and the rollers (pulleys) 252, 502 via bushings 258 and 260. As discussed above, and as illustrated in figure 4 of Watterson, for example, the structure of Watterson discloses a single base/motor frame (tread base) 12 that is movably connected to a support frame (support structure) 14 (column 4, lines 28-30). The single base/motor frame (tread base) 12 is formed by left side 16, right side 18, front end member 20 and rear end member 22 (column 4, lines 30-39).

The other structural members of the base/motor frame (tread base) 12 may arguably include the cross support 264 and the cross member 292. However, the only attachment of the

base/motor frame (tread base) 12 to the support frame (support structure) 14 is along a pivot line (base axis) 52 (column 5, lines 45-47). The reference to "a first pivot line 288" in the Office action corresponds to a pin 288, which allows an extension 274 and a cantilever 290 to rotate relative to one another, allowing right and left feet 34, 160 to raise and lower the base/motor frame (tread base) 12 (column 9, line 54 – column 10, line 62).

Thus, the Assignee respectfully disagrees with the interpretation of Watterson set forth in the Office action. Watterson does not disclose a motor frame separate from a base frame, but rather discloses a single base/motor frame (tread base) 12 as discussed above. As such, Watterson does not disclose a base frame pivotally attached to a motor frame as recited in claim 15.

Moreover, Watterson does not disclose any such pivotal attachment "along a second pivot line spaced from the first pivot line" as recited in claim 15. The Office action refers to a "second pivot line" being along the rear end of the motor frame in figure 4 of Watterson, apparently referring to pivoting involved with the incline means 152 (column 9, line 35 – column 10, line 62). However, the pivoting involved with the incline means 152 does not relate to any pivotal attachment between a motor frame and a base frame. As discussed above, Watterson discloses only a single base/motor frame (tread base) 12.

Pasero is not relied upon by the Office action for allegedly disclosing any of these features absent from Watterson, and the Assignee respectfully submits that Pasero does not remedy these deficiencies of Watterson.

For at least the foregoing reasons, the Assignee respectfully submits that claim 15 is patentable over any permissible combination of Watterson and Pasero. The Assignee respectfully submits that claims 16, 18-21 and 23 are patentable over any permissible combination of Watterson and Pasero at least in view of the patentability of claim 15 from which they depend, as well as for the additional features they recite. Accordingly, the Assignee respectfully requests withdrawal of the rejection of claims 15, 16, 18-21 and 23.

The Office action rejects claims 17 and 22 under 35 U.S.C. § 103(a) over Watterson in view of Pasero and U.S. Patent No. 5,839,993 to Fox. The Assignee respectfully traverses this rejection.

The Assignee respectfully submits that Fox does not remedy the deficiencies of Watterson and Pasero with respect to claim 15, discussed above. As such, the Assignee respectfully submits that claims 17 and 22 are patentable over any permissible combination of Watterson, Pasero and Fox at least in view of the patentability of claim 15 from which they

depend, as well as for the additional features they recite. Accordingly, the Assignee respectfully requests withdrawal of the rejection of claims 17 and 22.

II. Conclusion

After entry of the above listing of claims and remarks, claims 13-23 remain in the application. In accordance with the amendments and arguments set forth herein, the Assignee respectfully submits the application and all claims are in a condition for allowance, and requests such prompt allowance.

A petition for a one-month extension of time accompanies this Amendment and Response. Accordingly, please charge Deposit Account number 04-1415 in the amount of \$120.00 for the one-month extension of time fee. The Assignee believes no further fees or petitions are due with this filing. However, should any such fees or petitions be required, please consider this as authorization therefor and please charge such fees to Deposit Account number 04-1415.

Should any issues remain that the Examiner believes may be dealt with in a telephone conference, he is invited to contact the undersigned at 303-629-3400.

Respectfully submitted,

Date: April 14, 2008

By 
Klifton L. Kime, Reg. No. 42,733
DORSEY & WHITNEY LLP
370 Seventeenth Street, Suite 4700
Denver, Colorado 80202-5647
Tel.: (303) 629-3400
Fax: (303) 629-3450

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